

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

TARA DIGIACOMO
Plaintiff,

v.

LJT TRUCKING, INC. AND CARLOS
ALEMAN,
Defendants.

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CIVIL ACTION NO. 5:21-cv-00876

JURY TRIAL REQUESTED

**DEFENDANT LJTRUCKING, INC.'S
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C §§ 1332(a), 1441, and 1446, Defendant LJTRUCKING, INC., hereby gives notice of the removal of this cause of action to the United States District Court for the Western District of Texas, San Antonio Division. Defendant LJTRUCKING, INC. states as grounds for removal the following:

PROCEDURAL STATUS OF THE CASE

1. Plaintiff, TARA DIGIACOMO, filed suit on August 31, 2021. The case was filed in the 408th Judicial District Court of Bexar County, Texas under cause number 2021-CI-18377, case style *Tara DiGiacomo v LJTRucking, Inc. and Carlos Aleman*.¹

2. The Judicial District Clerk of Bexar County, Texas issued its citation to LJTRucking, Inc. on September 13, 2021.²

3. LJTRucking, Inc. has not been properly served at this time, thereby this Notice of Removal is filed timely.

¹ See Ex. C (Plaintiff's Original Petition)

² See Ex. D (Request for Process). Defendant LJTRucking has not been properly served at this time.

4. All pleadings, process, orders, and other filings in the state court action accompany this notice. *See* 28 U.S.C. § 1446(a).

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Western District of Texas, San Antonio Division.

6. Defendant will promptly file a copy of this Notice of Removal with the Bexar County District Clerk.

BACKGROUND

7. This case arises out of a motor vehicle accident that occurred in San Antonio, Bexar County, Texas on July 19, 2020. The drivers involved in the collision were: Plaintiff, Tara DiGiacomo, and Defendant, Carlos Aleman. Plaintiff Tara DiGiacomo claims that she suffered personal injuries as a result of the alleged negligence of Defendant, Carlos Aleman.

8. Plaintiff, Tara DiGiacomo, currently resides in Bexar County, Texas and is a citizen of the State of Texas.

9. Defendant LJT Trucking, Inc. is a corporation authorized to do business in Texas with its principal place of business in the State of Florida.³ LJT Trucking, Inc. is also incorporated in the State of Florida.⁴ Because LJT Trucking, Inc.'s headquarters and principal place of business is located in Hialeah, Florida and LJT Trucking, Inc. is incorporated in the State of Florida, LJT Trucking, Inc. is a citizen of the State of Florida for purposes of diversity jurisdiction.

10. On information and belief, Defendant Carlos Aleman resides in Opa Locka, Florida, and is a citizen of the State of Florida.

³ *See* Ex. F (LJT Trucking, Inc.'s Registration in Florida); *See also* Ex. G (LJT Trucking, Inc.'s 2020 Annual Report in Florida).

⁴ *See* Ex. F (LJT Trucking, Inc.'s Registration with Florida Secretary of State).

BASIS FOR ORIGINAL FEDERAL COURT JURISDICTION

11. Plaintiff Tara DiGiacomo demands judgment in an amount over \$1,000,000⁵ and the Plaintiff and the Defendants in this matter are citizens of different States. The district courts therefore have original jurisdiction of this matter according to 28 U.S.C § 1332(a).

PROPRIETY OF REMOVAL

12. LJT Trucking, Inc. has not been served with Plaintiff's Original Petition to date, and thereby this Notice of Removal is timely filed. Upon information and belief, Defendant Carlos Aleman has not been properly served at this time either.

13. On information and belief, no other defendant has been served with citation so no consent to removal is necessary. 28 U.S.C. § 1446(b)(2)(A).

14. This court has original jurisdiction of this matter under 28 U.S.C § 1332(a).

15. Except as otherwise expressly provided by an Act of Congress, any civil action brought in a state court of which the district courts of the United States have original jurisdiction may be removed to the district court of the United States for the district and division embracing the venue where the state court action was pending. *See* 28 U.S.C § 1446(a). The state court action that is the subject of this notice of removal is pending in Bexar County, Texas, which is found in the Western District of Texas, San Antonio Division. Therefore, venue of this removed action is proper in this Court and Division.

16. Removal is not barred by 28 U.S.C. § 1445. Defendant Carlos Aleman is not a citizen or resident of the State of Texas, so removal is not prohibited by 28 U.S.C. § 1441(b). Defendant LJT Trucking, Inc, is a corporation authorized to do business in Texas with its principal

⁵ See Ex. C (Plaintiff's Original Petition).

place of business in the State of Florida.⁶ LJT Trucking, Inc. is also incorporated in the State of Florida.⁷ Because LJT Trucking, Inc.'s headquarters and principal place of business is located in Hialeah, Florida and LJT Trucking, Inc. is incorporated in the State of Florida, LJT Trucking, Inc. is a citizen of the State of Florida for purposes of diversity jurisdiction.

17. Pursuant to 28 U.S.C § 1446(a) and Rule 81 of the Federal Rules of Civil Procedure, Defendants have attached hereto:

- (1) A list of all parties in the case, their party type, and the current status of the removed case;
- (2) A civil cover sheet and certified copy of the state court docket sheet; a copy of all pleadings that assert causes of action; all answers to such pleadings and a copy of all process and orders served upon the party removing the case to this court (if any);
- (3) A complete list of attorneys involved in the action being removed, including each attorney's bar number, address, telephone number, and part or parties represented by him or her;
- (4) A record of which parties have requested trial by jury; and
- (5) The name and address of the Court from which the case is being removed.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

18. If Plaintiff Tara DiGiacomo contests this removal, Defendants request:
- a. A hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter;
 - b. The opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and
 - c. Leave to conduct limited discovery related to those issues.

JURY DEMAND

⁶ See Ex. F (LJT Trucking, Inc.'s Registration in Florida); See also Ex. G (LJT Trucking, Inc.'s 2020 Annual Report in Florida).

⁷ See Ex. F (LJT Trucking, Inc.'s Registration with Florida Secretary of State).

19. Defendants demand a jury trial.

WHEREFORE, PREMISES CONSIDERED, Defendant LJT Trucking, Inc. removes the above captioned action from the 408th District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/ David Helmey

DAVID HELMEY

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ATTORNEY FOR DEFENDANT

LJT TRUCKING, INC.

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per W. Dist. Tex. Loc. R. LR5.1. A true and correct copy of the foregoing Defendant's Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this September 15, 2021.

/s/ David Helmey

DAVID HELMEY